IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPEALLTE JURISDICTION.

CRIMINAL APPEAL NO. 983 OF 2002

Pandurang Gopal Chougule..... .... Appellant.
V/s (Orig.Accd.)
The State of Maharashtra .... Respondents.

Mrs.Ruchita Dhuru with Ms.Savigta Suryawanshi, Adv. for the appellant.

Dr.F.R.Shaikh, APP for the State.

CORAM: V.G. PALSHIKAR
AND
SMT.NISHITA MHATRE, J.

19th Oct., 2006.

ORAL JUDGMENT: (Per Palshikar, J.)

Being aggrieved by the judgment and order of conviction and sentence passed by the learned Ad-hoc Additional Sessions Judge, Kolhapur in Sessions Case No.203 of 2000 on 25.06.2002 the appellant-accused has preferred this appeal on the grounds mentioned in the memo of appeal as also verbally canvassed before us.

2. With the assistance of the learned Advocate for the appellant as also the learned Public Prosecutor we have scrutinized the entire evidence on record and reappreciated the same.

3. The prosecution story is that the deceased Laxmibai was the

keep of accused Pandurang. The have a son Sagar aged 13 years old. All the three were residing in rented one room house-tenement which is situated in Mangeshwarkar colony, Uchagaon. The landlord of the said house is Balwant Mudugade, who stays at the distance of 1500 to 2000' from the house of the accused. On the night of 25.4.2000 the accused and his wife Laxmibai were sleeping inside the house, whereas their son Sagar was sleeping outside the house where there is small passage of about 7' to 8' width which is known as Bol. At about 4.00 a.m. Sagar got up on hearing the cries of his mother saying `save save' coming from inside the house. Simultaneously with this hearing of cries, Laxmibai came out of the house. At that time there was fire on her clothes and were burning. Hearing the cries Surekha and other neighbours also came there and they poured water on Laxmibai and extinguished the fire. At that time accused who was sitting in the house came out and left that place.

4. The prosecution examined seven witnesses to prove the above case and on appreciation of that evidence the learned trial Judge came to the conclusion of guilt as aforesaid and sentenced the accused as mentioned above. This order of conviction and sentence is impugned in this appeal on the grounds mentioned in the memo of appeal as also verbally canvassed before us.

5. PW1-Sagar Chougule son of the accused and the deceased, got

up on hearing shouts of the victim and saw the victim coming out of the room in flames. He heard her saying that she was burnt by her husband i.e. The accused. He then saw the accused coming out of the house and going away. To the same effect is the evidence of PW2-Surekha Khande who is neighbour of the accused and the victim. She also heard the victim saying that victim was burnt by the accused. She also saw the victim in flames. She also saw the accused. If necessary we will find further corroboration to all these testimonies from the deposition of PW3-Balwant Mudagale who is the landlord of the house. He stated that he went to the spot having learnt that somebody was on fire, saw the victim, heard her saying that she was burnt by the accused. He therefore arranged for her to be taken to the hospital. Accordingly she was taken to the hospital. He informed the police and investigation commenced.

6. PW4-Sandeep Doiphode is the doctor who examined the victim on admission and was present at the time of recording dying declaration he has certified that the victim was conscious and fit physically as also mentally to give her statement. The endorsements made by him on dying declaration are proved by him in the Court. PW6-Subhas Banage is police head constable who recorded the dying declaration. He has proved it. He has also deposed that the victim immediately told him that she was burnt by the accused. PW7-

Namdeo Mane is the investigating officer.

7. We have scrutinized the dying declaration it bears all the necessary requirements of a valid dying declaration. It has been proved by PW6. It is certified by the doctor PW-5. Both of them state in their deposition that recording of the statement was done when the victim was in conscious condition and she said that she was burnt by the accused. There is thus abundant corroboration to the dying declaration in the shape of evidence of Pws1, 2 and 3 to each of whom the victim had said that she was burnt by the accused. The dying declaration legally recorded, is legally proved, carrying certificates of the doctor recording evidence of the victim, the statement is corroborated by three witnesses. In pith and substance all this has led to the conviction of the accused. In our opinion, there is no error of any kind committed by the learned trial Judge in cording the findings of conviction and sentence. The findings reached by the learned trial Judge are proper. We also on independent appreciation of that evidence are of the opinion that the findings as recorded are correct. We endorse the said findings. In our opinion, the prosecution has proved beyond reasonable doubt that it was the accused alone who has burnt his wife to death and therefore deserves to be sentenced to life imprisonment. In the result, the appeal fails and is dismissed.